

Land Development Regulations

Chapter 3-9. Zoning

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Sec. 3-9-5. Administration and Enforcement; Building Permits.

(a) Administration.

- (1) *Planning and zoning board.* The planning and zoning board shall consist of a total of six (6) members. Five (5) members of the planning and zoning board shall be voting members, consisting of one (1) qualified voter from each county commissioner's district. One (1) member of the planning and zoning board shall be a nonvoting member nominated by the school board of Charlotte County whose duties shall be to attend any of those meetings of the planning and zoning board when, while acting in its capacity as the local planning agency, the planning and zoning board hears an application for a comprehensive plan amendment or rezoning which, if approved, would increase residential density on the subject property. All appointments to the planning and zoning board shall be made by the board of county commissioners. Members shall serve for four (4) years from the date of appointment but shall be subject to removal at any time by majority vote of the board of county commissioners.

Members of the planning and zoning board shall receive no salaries or other compensation for their services as members, but they shall be entitled to reimbursement of necessary expenses incurred in the performance of their duties.

The planning and zoning board shall elect from its membership a chairman and a vice chairman and such other officers as the board may deem necessary or proper. Officers of the planning and zoning board shall serve for one (1) year, but shall be eligible for reelection.

- (2) *Procedure.* The board of county commissioners may adopt rules of procedure for the transaction of business by the planning and zoning board. The planning and zoning board shall maintain a public record of all transactions and hearings. The planning and zoning board shall hold regular meetings at least once each calendar month.

- (3) *Planning.* In addition to any other duties granted to it, the planning and zoning board shall act as the county's local planning agency, as that term is defined in F.S. § 163.3174. The planning and zoning board shall acquire and maintain such information and material as shall be necessary for an understanding and evaluation of past trends, present conditions and probable future developments and trends within the county. It shall advise and inform the board of county commissioners and the general public in all matters relating to zoning, planning and future development. It shall conduct such public hearings and make such investigations as may be required in the performance of its duties. Amendments and alterations in the zoning regulations and district boundaries may be proposed by the board of county commissioners, by the planning and zoning board, by the local planning agency as that term is defined by general law or by a petition of the owners of the lands to be affected by the proposed amendments or regulations. Upon due notice and hearing, the planning and zoning board shall submit its recommendations to the board of county commissioners regarding the proposed amendment, which recommendation shall be acted upon as provided by law.

State law reference— Local planning agency, F.S. § 163.3174.

- (4) *Zoning.* The zoning official or his duly authorized representative shall be the executive officer in charge of the administration and enforcement of all zoning regulations established within the unincorporated areas of the county. The zoning official shall be appointed by and hold office at the pleasure of the board of county commissioners. The zoning official shall:
- a. Attend all meetings of the planning and zoning board and the board of zoning appeals;
 - b. Administer and enforce this chapter;

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- c. Receive and review all plans and specifications for proposed structures to ensure compliance with zoning regulations, and cause to be made periodic inspections of structures under construction to ensure compliance with approved plans and specifications;
- d. Receive petitions for requests for special exceptions, petitions for variances and appeals from administrative rulings on zoning matters;
- e. Issue public notices as required by the board of zoning appeals and the board of county commissioners;
- f. Receive fees for permits, prepare budgets for operations of the zoning department, and to recommend the hiring of the personnel necessary for the expeditious performance of the duties assigned to this office, subject to approval by the board of county commissioners; and
- g. Perform such other duties as may be established by the board of county commissioners.
- (b) *Application.* It shall be unlawful for any person to construct, alter, move, add onto, remove or demolish any building or structure on land or water, without first making application for a permit to the zoning official in such form as he may require and obtaining the proper permit. No existing use, new use or change of use in land or water of any building or structure or any part thereof shall be made except in conformance with this chapter.
- (c) *Building permits.* In addition to other requirements of this chapter or other regulations, an application for a building permit shall contain each of the following:
- (1) Prints or drawings of an appropriate scale of the structures to be built;
 - (2) A signed and sealed site plan, to scale, showing the location of the structure and all appurtenances thereto on the property; distances to the property lines, bodies of water, or other buildings or structures; and off-street parking spaces showing access and maneuvering space;
 - (3) A signed and sealed survey showing all recorded easements and the apparent mean high-water line shall be submitted with applications for new construction;
 - (4) Where the existing or to be constructed building will be devoted to more than one (1) use, such plans shall show the percentage and areas of each use with the details thereof;
 - (5) A legal description of the lot upon which such structures are to be constructed; and
 - (6) A plan for screening of commercial and/or industrial property.
- The application shall be made by the owner or his authorized agent. No building permit shall be issued without certification by the zoning official that the plans submitted conform to this chapter. It shall be the duty of the zoning official, upon receiving applications for permits, to examine the same within a reasonable period of time after filing, not to exceed thirty (30) days. If the zoning official finds that the proposed work will be in compliance with this chapter, he shall approve the application. If he finds that the proposed work is not in compliance with the regulations herein, he shall reject such application, noting his findings in a report to be attached to the application and delivering a copy to the applicant.
- (d) *Certificate of occupancy.*
- (1) *Generally.* The zoning official shall approve the issuance of a certificate of occupancy after he has determined that the building has been constructed and screening installed in accordance with the provisions of the permit and that such building is designed, arranged and appears to be intended for use as specified in the building permit. No building shall be occupied or used until such permit is approved by the zoning official.
 - (2) *Change of principal use.* Whenever the principal use of an existing structure is to be changed, the owner, agent, lessee or intended occupant thereof shall apply to the zoning official for issuance of a new certificate of occupancy, stating that the new use is approved within the

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district wherein it is located. A new certificate of occupancy shall only be approved by the zoning official when the new use conforms to this chapter.

(e) *Authority to revoke permit.* The county commission may revoke any permit issued where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit was based or any permit issued in contravention of law.

(f) *Fees.* The board of county commissioners shall by resolution fix reasonable recording, hearing and permit fees to be charged by the zoning official.

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Sec. 3-9—68-5.1. Authority to Enter Upon Private Property

The zZoning eOfficial, members of his county staff, and contractors and agents acting under proper county authority, may enter upon land to make examinations and surveys as are necessary for the performance of their duties under these regulations. and to enforce any of the provisions of this Code and Chapter 162, Florida Statutes. (Minutes of 12-8-81, § 8; Ord. No. 97-112, § 5, 11-18-97)

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Sec. 3-9-725.2. Deed Restrictions

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No public agencies shall be responsible for enforcing deed restrictions or restrictive covenants.

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(Minutes of 12-8-81, § 8)

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Sec. 3-9-75.3. Exceptions to Required Yards

In all districts, yards shall be as established by the applicable district regulations except as follows:

- (1) When lots comprising ~~forty (40)~~ percent or more of the frontage on one ~~(4)~~ side of a street between intersecting streets have been developed with the principal buildings having an average front yard with a variance of not more than six ~~(6)~~ feet from the required front yard, the zoning official may approve the issuance of a building permit to provide for a front yard of not less than the average established.
- (2) Where single-family residential lots of record are nonconforming because of width, the minimum side yards shall not be less than ten (10) percent of the lot width, provided that no side yard shall be less than five ~~(5)~~ feet wide.
- (3) If a multifamily, commercial or industrial district abuts a single-family district, no structure shall be erected closer to the abutting single-family zoned property than ~~twenty-five (25)~~ feet or the building height, whichever is greater.
- (4) Every part of required yards shall be open and unobstructed, subject to the following:
 - a. Sills and belt courses may project not over ~~twelve (12)~~ inches into a required yard.
 - b. Movable awnings may project not over three ~~(3)~~ feet into a required yard, provided that where the yard is less than five ~~(5)~~ feet in width the projection shall not exceed one-half the width of the yard.
 - c. Window or wall-mounted air conditioning units, chimneys, fireplaces, bay windows or pilasters may project not over three ~~(3)~~ feet into a required yard.
 - d. Fire escapes, stairways and balconies which are unroofed and unenclosed may not project more than five ~~(5)~~ feet in a required yard.
 - e. Hoods, cornices, gutters, roof overhangs, air conditioning units and marquees may project not more than five ~~(5)~~ feet into a required yard, but in no event closer than one ~~(1)~~ foot to the lot line.
 - f. Fences, walls and hedges are permitted in required yards, subject to the provisions of Sec. 3-9-73 on fences and walls, and Sec. 3-9-65.1, Visibility at road intersections.
 - g. Except as provided by Sec. 3-9-65.1, Visibility at road intersections, nothing in these regulations shall be construed to prohibit landscaping or gardening on any lot.
 - h. No structures other than those approved by the county engineer may be located in or project into a drainage easement of record. (~~Minutes of 12-8-81, § 8; Res. No. 82-138, §§ 1-3, 9-21-82; Ord. No. 2003-061, § 10, 8-26-03~~)

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Sec. 3-9-5.42. Expedited Permitting Process for Certified Affordable Housing Development

- (a) *General purpose.* The purpose and intent of this section is to provide an expedited permitting process for the construction of affordable housing in accordance with the Charlotte County Affordable Housing Incentive Plan, adopted March 29, 1994, pursuant to the State Housing Initiatives Partnership (SHIP) program, F.S. section 420.9072. The expedited permitting process for affordable housing development ("AHD") contains incentives available to developers of a certified AHD. A review process for the approval of AHDs is included in this section, as well as appropriate references to other county ordinances or regulations affecting the development of AHDs. The review committee for the expedited permitting process will be composed of representatives from the community development department, public works, fire rescue/EMS, fire prevention, Charlotte County Utilities, and any other department(s) designated by the county administrator. (Reference to the county administrator throughout this section shall be construed to include his/her designee(s)).
- (b) *Authorization of affordable housing developments (AHDs).* The county administrator is authorized to certify that an application is, or qualifies as, an affordable housing development (AHD) when a developer commits to make at least ~~twenty-five (25)~~ percent of the units (or one ~~(1)~~ unit, in the case of a single unit development) to be constructed or rehabilitated affordable and available to low or very low income persons as provided in Ordinance No. 93-07.
- (c) *Rapid response processing.* The county administrator shall serve as the ombudsman between the applicant and the Charlotte County review agencies. The ombudsman shall coordinate an expedited review process that gives AHDs priority in the review of zoning and building permit applications.
- (1) The ombudsman shall assist the developer of an AHD and the development team in the permit requirements for county AHD applications. AHD proposals that exceed the thresholds of ~~section 3-5-5.1(d) development review committee (DRC) Site Plan Review process outlined in section 3-9-5.13-9-7.~~ The ~~DRC~~ Site Plan Review shall schedule a meeting to review AHD applications within one ~~(4)~~ week of the receipt of a complete application. AHD projects that require action by the zoning board of appeals shall be placed on the agenda of the next regularly scheduled meeting, unless the applicant requests a delay.
- (2) A certified AHD application that does not require either ~~DRC~~ the Site Plan Review or Board of Zoning Appeals zoning board of appeals approval shall be expedited through the Charlotte County Building Department review process. All Charlotte County review agencies shall give priority review to all AHD applications, reporting items that may result in delay of approval to the ombudsman. The ombudsman shall review any item that may result in a delay with the applicant within ~~twenty-four (24)~~ hours of the action necessary to facilitate application approval.
- (3) Any proposed amendment, deviation, or change to an AHD application that has been approved by the ~~DRC~~ Site Plan Review shall be reviewed by the zoning official to determine whether the proposed change constitutes a minor or major modification to the approved AHD site plan. The ombudsman is responsible to provide any proposed revision to an approved AHD site plan with the same expedited processing given to the original application for permit approval.
- (d) *Review of regulations and procedures that affect housing cost.* Any and all changes in code, procedure or process that affect the cost of housing shall be reviewed by the Charlotte County Affordable Housing Advisory Committee. No such changes shall be considered for approval by the Charlotte County Board of County Commissioners, or any person or agency delegated with authority to act on its behalf, unless it has been considered by the affordable housing advisory committee at a public meeting. The Charlotte County Affordable Housing Advisory Committee shall make nonbinding recommendations of any proposed changes in code, procedure or process that affect the cost of housing to the Charlotte County Board of County Commissioners.

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(Ord. No. 98-071, § 1, 12-1-98)

Sec. 3-9-765.5. Exclusions Ffrom Hheight Llimitations

Height limitations contained in Article II, District Regulations, and Sec. 3-9-89, Waterfront property, do not apply to elevator shafts, spires, belfries, cupolas, flagpoles, antennas, water tanks, ventilators, chimneys, feed storage structures and other appurtenances usually located above roof level and not intended for human occupancy, nor to fire towers or airport control towers. The height of such structures shall not exceed limitations prescribed by the Federal Aviation Administration (FAA) or Sec.3-9-63, Air hazard zones.

(Minutes of 12-8-81, § 8; Ord. No. 2002-008, § 6, 1-28-02)

(i) Form of Ownership. This chapter shall be construed and applied with regard to the use of property and without regard to the form of ownership.

(j) Moving of Structures. No structure shall be moved from one lot to another lot or moved to another location on the same lot unless such structure shall thereafter conform to this chapter and all other applicable regulations.

(k) Property Frontage. No permit shall be issued for the erection of a building on a parcel of land or lot which does not abut a public or private road right-of-way for at least 50 feet, except that a minimum road abutment of 20 feet shall apply to properties of an irregular shape if there is a minimum building lot width of 50 feet at the required front setback lines

(Minutes of 12-8-81, § 9; Res. No. 83-07, § 1(9.5.1—9.5.6), 2-8-83; Res. No. 85-112, § 3, 6-18-85; Ord. No. 89-49, § 2, 6-22-89; Ord. No. 2003-076, §§ 1, 2, 11-25-03)

Sec. 3-9-785.6. Form of Ownership

This chapter shall be construed and applied with regard to the use of property and without regard to the form of ownership. (Minutes of 12-8-81, § 8)

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Sec. 3-9-865.7. Moving of structures

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No structure shall be moved from one (1) lot to another lot or moved to another location on the same lot unless such structure shall thereafter conform to this chapter and all other applicable regulations.
(Minutes of 12-8-81, § 8)

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Sec. 3-9-935.8. Property Frontage

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No permit shall be issued for the erection of a building on a parcel of land or lot which does not abut a public or private road right-of-way for at least ~~fifty (50)~~ feet, except that a minimum road abutment of ~~twenty (20)~~ feet shall apply to properties, including flag lots, if there is ~~of an irregular shape if there is a~~ minimum building lot width of 50 feet at the required front setback lines. sufficient building envelope within the property to meet all minimum building setbacks and lot area requirements.